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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER, L.L.P.  
1300 I STREET, N.W.  
WASHINGTON, DC 20005-3315

EXAMINER

YU, GINA C

ART UNIT

PAPER NUMBER

1619

DATE MAILED: 12/13/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

09/692,749

Applicant(s)

DECOSTER ET AL.

Examiner

Gina C. Yu

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

### **DETAILED ACTION**

Receipt is acknowledged of Amendment filed on October 2, 2001. Claims 1-108 are pending.

#### ***Claim Rejections - 35 USC § 112***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, examiner maintains the position that the term “essentially” renders the claim vague and indefinite. In Arguments filed on October 2, 2001, applicants argue that the term is clear as it is defined as “not crosslinked to an extent sufficient to be referred to as a crosslinked copolymer” in the specification. Examiner views that this definition is circular and still lacks the standard to determine how much crosslinking on the copolymer is considered as must occur to be considered as a non-crosslinked copolymer?

Rejections on claims 1, 23, 27, 101, 96, 105, 106, and 108 have been withdrawn.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(A) Claims 1-31, 38 – 40, 94-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al. (EP 0874017 A2) in view of Dubief et al. (U.S. Pat. No. 5,650,383).

The rejection is maintained for the reasons of record.

Art Unit: 1619

(B) Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al. and Dubief et al., ('383) as applied to claims 1-31, 38-40, 94-108 above, and further in view of Grollier et al. (U.S. Pat. No. 5,063,051).

The rejection is maintained for the reasons of record.

(C) Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al., Dubief et al. ('383), Grollier et al. ('051) as applied to claims 1-32, 38-40, 94-108 above, and further in view of Grollier et al. (U.S. Pat. No. 4,957,732).

The rejection is maintained for the reasons of record.

(D) Claim 34 - 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al., Dubief et al. ('383), Grollier et al. ('051) and ('732) as applied to claims 1-33, 38-40, and 94-108 above, and further in view of Dubief et al. (U.S. Pat. No. 6,011,126).

(E) Claims 41 - 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al., Dubief et al. ('383), ('126), Grollier et al. ('051) and ('732) as applied to claims 1-40, and 94-108 above, and further in view of Restle et al. (U.S. Pat. No. 6,039,936).

The rejection is maintained for the reasons of record.

(F) Dalle et al., Dubief et al. ('383), ('126), and Grollier et al. ('051) ('732) are discussed above. The combined references lack the teaching of using the cationic polymers in claims 41-67.

The rejection is maintained for the reasons of record.

(G) Claims 68-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle et al., Dubief et al. ('383), ('126), Grollier et al. ('051), ('732), and Restle et al., as applied to claims 1-67 and 94-108 above, and further in view of Inman (U.S. Pat. No. 5,948,739).

The rejection is maintained for the reasons of record.

***Response to Arguments***

Applicant's arguments filed on October 2, 2001 have been fully considered but they are not persuasive.

Applicants argue that the 103(a) rejection based on Dalle in view of Dubief is not prima facie obvious because is no incentive to modify Dubief by adding the silicones of Dalle.

Examiner views that this argument does not address the issue of whether it would have been obvious to *modify Dalle* by adding the polyorganosiloxanes in Dubief.

Examiner maintains the position that the motivation to alter Dalle is found in the beneficial effects of the silicone softeners taught in Dubief, and that a skilled worker would have expected to successfully obtain a hair products which retains the effects of the silicone softeners from the modification.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1619

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-305-3593.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu  
Patent Examiner  
December 6, 2001

  
**DIANA DUDASH**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600